

**Introduced by Senator Hollingsworth**

February 27, 2009

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An act to amend Section ~~290~~ 290.018 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 668, as amended, Hollingsworth. Sex offenders.

Existing law, *the Sex Offender Registration Act*, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California, and requires preregistration and reregistration, as specified. ~~Willful failure to register, preregister, or reregister, as required, is a misdemeanor or felony, depending on the underlying offense. Existing law also provides that the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is punishable by imprisonment in a county jail not to exceed one year.~~

~~This bill would require that the registration, preregistration, or reregistration be signed under penalty of perjury~~ instead provide that the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in the state prison, depending on whether the sex offense which was the basis for requiring registration was either a misdemeanor or felony.

~~By expanding the crime of perjury, a felony~~ changing an offense punishable only as a misdemeanor to one punishable as either a

*misdemeanor or a felony, additional local costs associated with felony offenses will be incurred in those cases prosecuted as a felony, and thus this bill would create a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 290.018 of the Penal Code is amended*  
2     *to read:*

3     290.018. (a) Any person who is required to register under the  
4     Act based on a misdemeanor conviction or juvenile adjudication  
5     who willfully violates any requirement of the Act is guilty of a  
6     misdemeanor punishable by imprisonment in a county jail not  
7     exceeding one year.

8     (b) Except as provided in subdivisions (f), (h), and (j), any  
9     person who is required to register under the Act based on a felony  
10    conviction or juvenile adjudication who willfully violates any  
11    requirement of the Act or who has a prior conviction or juvenile  
12    adjudication for the offense of failing to register under the Act and  
13    who subsequently and willfully violates any requirement of the  
14    Act is guilty of a felony and shall be punished by imprisonment  
15    in the state prison for 16 months, or two or three years.

16    (c) If probation is granted or if the imposition or execution of  
17    sentence is suspended, it shall be a condition of the probation or  
18    suspension that the person serve at least 90 days in a county jail.  
19    The penalty described in subdivision (b) or this subdivision shall  
20    apply whether or not the person has been released on parole or has  
21    been discharged from parole.

22    (d) Any person determined to be a mentally disordered sex  
23    offender or who has been found guilty in the guilt phase of trial  
24    for an offense for which registration is required under the Act, but  
25    who has been found not guilty by reason of insanity in the sanity  
26    phase of the trial, or who has had a petition sustained in a juvenile  
27    adjudication for an offense for which registration is required

pursuant to Section 290.008, but who has been found not guilty by reason of insanity, who willfully violates any requirement of the Act is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of the Act, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(e) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this act, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this section. A person convicted of a felony as specified in this section may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this act, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(f) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subdivision (b) of Section 290.012, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(g) Except as otherwise provided in subdivision (f), any person who is required to register or reregister pursuant to Section 290.011 and willfully fails to comply with the requirement that he or she reregister no less than every 30 days is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for at least 30 days, but not exceeding six months. A person who willfully fails to comply with the requirement that he or she reregister no less than every 30 days shall not be charged with this violation more often than once for a failure to register in any period of 90 days. Any person who willfully commits a third or subsequent violation of the requirements of Section 290.011 that he or she reregister no less than every 30 days shall be punished in accordance with either subdivision (a) or (b).

(h) Any person who fails to provide proof of residence as required by paragraph (5) of subdivision (a) of Section 290.015, regardless of the offense upon which the duty to register is based,

1 is guilty of a misdemeanor punishable by imprisonment in a county  
2 jail not exceeding six months.

3 (i) Any person who is required to register under the Act who  
4 willfully violates any requirement of the Act is guilty of a  
5 continuing offense as to each requirement he or she violated.

6 (j) In addition to any other penalty imposed under this section,  
7 the failure to provide information required on registration and  
8 reregistration forms of the Department of Justice, or the provision  
9 of false information, is a crime punishable by imprisonment in a  
10 county jail for a period not exceeding one year; *or by imprisonment*  
11 *in the state prison, as follows:*

12 (1) *Any person required to register under the Act based on a*  
13 *misdemeanor conviction or juvenile adjudication who violates this*  
14 *subdivision is guilty of a misdemeanor punishable by imprisonment*  
15 *in a county jail for a period not exceeding one year.*

16 (2) *Any person required to register under the Act based on a*  
17 *felony conviction or juvenile adjudication who violates this*  
18 *subdivision is guilty of a felony punishable by imprisonment in*  
19 *state prison for 16 months, or two or three years.*

20 (k) Whenever any person is released on parole or probation and  
21 is required to register under the Act but fails to do so within the  
22 time prescribed, the parole authority or the court, as the case may  
23 be, shall order the parole or probation of the person revoked. For  
24 purposes of this subdivision, “parole authority” has the same  
25 meaning as described in Section 3000.

26 *SEC. 2. No reimbursement is required by this act pursuant to*  
27 *Section 6 of Article XIII B of the California Constitution because*  
28 *the only costs that may be incurred by a local agency or school*  
29 *district will be incurred because this act creates a new crime or*  
30 *infraction, eliminates a crime or infraction, or changes the penalty*  
31 *for a crime or infraction, within the meaning of Section 17556 of*  
32 *the Government Code, or changes the definition of a crime within*  
33 *the meaning of Section 6 of Article XIII B of the California*  
34 *Constitution.*

35 ~~SECTION 1. Section 290 of the Penal Code is amended to~~  
36 ~~read:~~

37 ~~290. (a) Sections 290 to 290.023, inclusive, shall be known~~  
38 ~~and may be cited as the Sex Offender Registration Act. All~~  
39 ~~references to “the Act” in those sections are to the Sex Offender~~  
40 ~~Registration Act.~~

1     ~~(b) Every person described in subdivision (c), for the rest of his~~  
2     ~~or her life while residing in California, or while attending school~~  
3     ~~or working in California, as described in Sections 290.002 and~~  
4     ~~290.01, shall be required to register with the chief of police of the~~  
5     ~~city in which he or she is residing, or the sheriff of the county if~~  
6     ~~he or she is residing in an unincorporated area or city that has no~~  
7     ~~police department, and, additionally, with the chief of police of a~~  
8     ~~campus of the University of California, the California State~~  
9     ~~University, or community college if he or she is residing upon the~~  
10    ~~campus or in any of its facilities, within five working days of~~  
11    ~~coming into, or changing his or her residence within, any city,~~  
12    ~~county, or city and county, or campus in which he or she~~  
13    ~~temporarily resides, and shall be required to register thereafter in~~  
14    ~~accordance with the Act.~~

15    ~~(c) The following persons shall be required to register:~~

16    ~~Any person who, since July 1, 1944, has been or is hereafter~~  
17    ~~convicted in any court in this state or in any federal or military~~  
18    ~~court of a violation of Section 187 committed in the perpetration,~~  
19    ~~or an attempt to perpetrate, rape or any act punishable under~~  
20    ~~Section 286, 288, 288a, or 289, Section 207 or 209 committed~~  
21    ~~with intent to violate Section 261, 286, 288, 288a, or 289, Section~~  
22    ~~220, except assault to commit mayhem, Section 243.4, paragraph~~  
23    ~~(1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph~~  
24    ~~(1) of subdivision (a) of Section 262 involving the use of force or~~  
25    ~~violence for which the person is sentenced to the state prison,~~  
26    ~~Section 264.1, 266, or 266c, subdivision (b) of Section 266h,~~  
27    ~~subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286,~~  
28    ~~288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision~~  
29    ~~(b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10,~~  
30    ~~311.11, or 647.6, former Section 647a, subdivision (e) of Section~~  
31    ~~653f, subdivision 1 or 2 of Section 314, any offense involving~~  
32    ~~lewd or lascivious conduct under Section 272, or any felony~~  
33    ~~violation of Section 288.2; any statutory predecessor that includes~~  
34    ~~all elements of one of the above-mentioned offenses; or any person~~  
35    ~~who since that date has been or is hereafter convicted of the attempt~~  
36    ~~or conspiracy to commit any of the above-mentioned offenses.~~

37    ~~(d) Every registration, reregistration, and preregistration required~~  
38    ~~by the Act shall be signed under penalty of perjury.~~

39    ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
40    ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~  
2 ~~district will be incurred because this act creates a new crime or~~  
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
5 ~~the Government Code, or changes the definition of a crime within~~  
6 ~~the meaning of Section 6 of Article XIII B of the California~~  
7 ~~Constitution.~~

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